

Court of Appeals, State of Michigan

ORDER

Fifth Third Bank v Frederic Mohanna

Docket No. 302448

LC No. 10-008881-AV

Karen M. Fort Hood
Presiding Judge

Kurtis T. Wilder

Kirsten Frank Kelly
Judges

In lieu of granting leave to appeal, pursuant to MCR 7.205(D)(2), the Court orders that the January 20, 2011, order of the Wayne County Circuit Court is VACATED IN PART to the extent that the circuit court remanded the matter to the district court for issuance of a judgment of possession in favor of plaintiff Fifth Third Bank. The district court never ruled on the merits of the bank's complaint seeking possession of the property because the court granted summary disposition to defendant on the basis that the foreclosure sale was void. Although the circuit court reversed the district court's grant of summary disposition, the circuit court should have only remanded the matter to the district court for reinstatement of the bank's complaint and further proceedings. See *Allen v Keating*, 205 Mich App 560, 564-565; 517 NW2d 830 (1994) (Appellate review is limited to issues actually decided by the trial court).

In all other respects, the Court orders that the application for leave to appeal is DENIED for lack of merit in the grounds presented.



A true copy entered and certified by Larry S. Royster, Chief Clerk, on

DEC 07 2011

Date


Chief Clerk